

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NKEM ECHEM,)	
)	
Petitioner)	
)	Civil Action No.
v.)	05cv10245-JLT
)	
JOHN ASHCROFT, ATTORNEY GENERAL,)	
)	
Respondent ¹)	

RESPONDENT'S RESPONSE TO PETITIONER'S
OBJECTION TO REPORT AND RECOMMENDATION

To whatever extent Petitioner's Opposition to the Respondent's Motion to Dismiss, filed April 11, 2005, can be construed as an Objection to the Magistrate's Report and Recommendation dated March 28, 2005, respondent hereby responds to it as provided by Fed. R. Civ. P. Rule 72(b).

Petitioner does not dispute the Magistrate's determination that respondent's motion to reopen, filed March 7, 2005, remained unopposed as of the March 28, 2005, Report and Recommendation of the Magistrate.

Nor does petitioner even attempt to address, discuss, or distinguish the Magistrate's application of Rivera-Martinez v. Ashcroft, 389 F.3d 207 (1st Cir. 2004) to petitioner's case.

¹ The responsive official of the Department of Homeland Security responsible for enforcement of petitioner's removal order in the instant action is Bruce Chadbourne, Field Office Director for Detention and Removal, Department of Homeland Security, Bureau of Immigration and Customs Enforcement ("ICE") in Boston, Massachusetts. See 28 U.S.C. § 517 (providing for the appearance of the Department of Justice "to attend to the interests of the United States in a suit pending in a court of the United States").

CONCLUSION

Because petitioner failed to oppose the respondent's Motion to Reopen, and because petitioner failed to avail herself of the prescribed direct judicial review of her removal order, habeas corpus review is unavailable to her as procedurally defaulted, Rivera-Martinez v. Ashcroft, supra, and the Report and Recommendation of the Magistrate was correctly determined.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused true copy of the above document to be served upon counsel for petitioner by mail on April 12, 2005.

s/Frank Crowley

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